**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929**

**OP.No. 32128 of 2001(Y)**

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**PETITIONERS:**

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1. **M.P. MURALEEDHARAN NAIR,**
   **OPERATOR, P.H. HEAD WORKS SECTION,**
   **KERALA WATER AUTHORITY, ALUVA.**

2. **R. ROSS NIXON,**
   **OPERATOR, W.S. (AUG) SECTION NO. I,**
   **KERALA WATER AUTHORITY,**
   **THIRUVANANTHAPURAM.**

3. **K.S. RAJU,**
   **OPERATOR, W.W. SECTION NO.I,**
   **KERALA WATER AUTHORITY,**
   **THRISSUR.**

4. **K.K. BHARATHAN,**
   **OPERATOR, P.H. SECTION,**
   **KERALA WATER AUTHORITY,**
   **IRINJALAKUDA.**

5. **P. DEVY PAUL,**
   **OPERATOR, W.W. SECTION NO. I,**
   **KERALA WATER AUTHORITY,**
   **THRISSUR.**

6. **K.M. SREENIVASAN,**
   **OPERATOR, P.H HEAD WORKS SECTION,**
   **KERALA WATER AUTHORITY, VELLANI.**

7. **T.V. JAMES, OPERATOR,**
   **P.H. SECTION,**
   **KERALA WATER AUTHORITY,**
   **IRINJALAKUDA.**

8. **V.P. VENUGOPALAN,**
   **OPERATOR, W.W. SECTION NO.I,**
   **KERALA WATER AUTHORITY, THRISSUR.**

**O.P. NO. 32128/2001:**

**9. PRAKASHAN K.S.,**
**OPERATOR, P.H. SECTION,**
**KERALA WATER AUTHORITY,**
**THIRURANGADI.**

**10. A. SATHYAN,**
**OPERATOR, P.H. SECTION,**
**KERALA WATER AUTHORITY, THALASSERY.**

**11. SOMANADHAN.C.C.,**
**OPERATOR, P.H. SECTION,**
**KERALA WATER AUTHORITY,**
**CHALAKUDY.**

**12. JANARDHANAN.K.O.V.,**
**OPERATOR, P.H. SECTION,**
**KERALA WATER AUTHORITY, CHERUVATHUR.**

**13. SUBRAMANIAN.P.U,**
**OPERATOR, P.H. SECTION,**
**KERALA WATER AUTHORITY, THRISSUR.**

**14. SELVICHEN.C.D.,**
**OPERATOR, P.H. SECTION NO.I,**
**KERALA WATER AUTHORITY, PIRAVOM.**

**15. K.J. SEBASTIAN,**
**OPERATOR, P.H. SECTION NO.I,**
**KERALA WATER AUTHORITY, PIRAVAM.**

**16. E.A. BABU, OPERATOR, P.H. SECTION NO.I,**
**KERALA WATER AUTHORITY, PIRAVAM.**

**17. E.K. JOY, P.H. SECTION NO.I,**
**OPERATOR, KERALA WATER AUTHORITY,**
**PIRAVAM.**

**BY ADV. SRI.K.RAMAKUMAR,**
**SRI.T.RAMPRASAD UNNI.**

**O.P. NO. 32128/2001:**

**RESPONDENTS:**
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1. **STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECRETARIATE, THIRUVANANTHAPURAM.**

2. **KERALA WATER AUTHORITY, REPRESENTED BY ITS MANAGING DIRECTOR, THIRUVANANTHAPURAM.**

3. **CHIEF ENGINEER, KERALA WATER AUTHORITY, THIRUVANANTHAPURAM.**

4. **SASIDHARAN NAIR, P.H. SECTION, KERALA WATER AUTHORITY, ALAPPUZHA.**

5. **V. KRISHNAN, OPERATOR, P.H. SECTION, KERALA WATER AUTHORITY, CHITTUR.**

***ADDL. RESPONDENTS 6 TO 10 IMPLEADED:**

*6. **A.P. GOPI, OPERATOR, MUVATTUPUZHA SUB STATION, KERALA WATER AUTHORITY.**

*7. **K.A. JOY, OPERATOR, MUVATTUPUZHA SUB STATION, KERALA WATER AUTHORITY.**

*8. **G. ABDUL RAHIM, OPERATOR, DISTRIBUTION SUB DIVISION NO. II, KERALA WATER AUTHORITY, WEST HILL, KOZHIKODE.**

*9. **K. MOHANAN, OPERATOR, KERALA WATER AUTHORITY, MALAPARAMBU, KOZHIKODE.**

**O.P. NO. 32128/2001:**

***10. K. VASU, OPERATOR,**
**DISTRIBUTION SUB DIVISION,**
**KERALA WATER AUTHORITY,**
**QUILANDY, VADAKARA, KOZHIKODE.**

***ADDL. RESPONDENTS 6 TO 10 ARE IMPLEADED AS PER ORDER DATED 17/01/2003 ON C.M.P. 568/2003 ON O.P. 32128/2007.**

**BY ADV. SRI.BABU VARGHESE, SC, KWA,**
**SRI.KRB.KAIMAL,**
**SRI.T.K.MARTHANDAN UNNITHAN,**
**SRI.V.JAYAKUMAR,**
**SRI.K.P.UNNIKRISHNAN,**
**SRI.P.J.MATHEW,,**
**SRI.THOMAS JOHN AMBOOKEN,**
**GOVT. PLEADER SRI. K.V. MANOJ.**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ORDER ON C.M.P. NO. 52428/2001 IN O.P. NO. 32128/2001**

**DISMISSED**

**13/06/2007.** **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

**APPENDIX**

**PETITIONER'S EXHIBIT:**

**EXT.P.1: COPY OF THE JUDGMENT DTD. 26/09/2001 IN WRIT APPEAL NO. 1792/1998.**

**RESPONDENT'S EXHIBITS:**

**EXT.R6.A: COPY OF THE SERVICE DETAILS OF THE PETITIONERS DTD. 01/04/1984.**

**EXT.R6.B: COPY OF THE GOVT. ORDER DTD. 19/11/1987.**

**EXT.R6.C: COPY OF THE CIRCULAR DTD. 15/12/1987.**

**EXT.R6.D: COPY OF THE GOVERNMENT ORDER DTD. 05/01/1991.**

**//TRUE COPY//**

**prv.**

**T.R.RAMACHANDRAN NAIR, J.**

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**O.P.No.32128 of 2001-Y.**

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**Dated this the 13th day of June, 2007.**

**J U D G M E N T**

**The petitioners herein are working as Operators under the Kerala Water Authority. They entered service pursuant to the recruitment made through the Public Service Commission on different dates from 1988 to 1990. The Water Authority published a provisional seniority list of Operators as on 1-1-1998 in which Operators who were not recruited through P.S.C. but who were appointed through Employment Exchange and from the category of CLR workers and have been regularised from time to time were shown as seniors to the petitioners. According to the petitioners, the persons who are not qualified could not have been shown as seniors to them and the qualified Operators have a right to rank seniors to those unqualified Operators.**

**2. On behalf of respondents 1 and 2 a counter-affidavit has been filed explaining the circumstances under which the persons recruited otherwise than through the P.S.C. were regularised. It is stated that as a matter of policy the Government took a decision to absorb the CLR hands to NMR workers and they were not governed by the provisions of K.S. & S.S.R.**

**The unskilled workers who were having five years of service were promoted after conducting a practical test. It is averred that after the issuance of the order of stay in CMP.No.5180/1992 in OP.No.2885/1992 the Kerala Water Authority has not appointed or regularised any unqualified persons, not possessing the qualifications prescribed in the Special Rules as Assistant Operator and Operator and equivalent posts. It is stated that the persons whose services have been regularised should be deemed to have been regularised under the provisions of the relevant rules and in preparing the seniority list, qualification is not a criteria to be looked into. It is also stated that the existing orders and rules do not permit for preparation of separate seniority list for qualified Operators and unqualified Operators. In CMP.No.52428/2001 by order dated 17-1-2003 the order of stay was modified on the following terms:**

> **"Any order regularising NMR/SLR/CLR workers shall not affect the seniority or other rights of existing P.S.C. recruits."**

**3. In Ext.P1 judgment in WA.No.1792/1998, it was noticed that the order granting special concession for appointment of NMR workers, was not challenged in it. Appointments were not set aside also. In this writ petition also petitioners are not challenging the appointment/regularisation of persons who were recruited otherwise than through PSC. Only contention is**

**regarding seniority in the seniority list. But there cannot be two separate seniority lists as contended by petitioners. Hence those reliefs seeking to provide two seniority lists cannot be granted. Counsel for additional respondents 6 to 10 also submits that being unqualified hands maximum posts they can aspire to continue are the post of Operators and the right of the petitioners for further promotion will not be affected at all. Therefore, the writ petition is disposed of maintaining the interim order dated 17-1-2003 and declaring that any order regularising NMR/SLR/CLR workers shall not affect the seniority or other rights of existing P.S.C. recruits.**

**With the above directions this writ petition is disposed of.**

**T.R.RAMACHANDRAN NAIR, JUDGE.**

***Kvs/-***